

## REQUEST FOR COUNCIL ACTION

MEETING

DATE: 10/20/03

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<b>AGENDA SECTION:</b> Consent Agenda	<b>ORIGINATING DEPT:</b> City Administrator	<b>ITEM NO.</b> D-3
<b>ITEM DESCRIPTION</b> Revised Memorandum of Understanding Concerning Certain County Road Improvements and Costs		<b>PREPARED BY:</b> T. Spaeth
<p>The Council was recently sent a memo related to a proposed revision to the Memorandum of Understanding for CSAH (Valleyhigh Road NW) roadway improvements. (See attached memo.).</p> <p>Based upon the information explained in said memo, the staff is recommending Council approval of the revisions to the Memorandum of Understanding. The Olmsted County Board of Commissioners approved the revisions to the Memorandum of Understanding at their October 14, 2003 meeting.</p> <p><b><u>COUNCIL ACTION REQUESTED:</u></b></p> <p>Council authorization for Mayor &amp; City Clerk to execute the revised Memorandum of Understanding Agreement as prepared.</p>		
<b>COUNCIL ACTION:</b> Motion by: _____ Second by: _____ to: _____		

# Memo

**To:** Mayor & Common Council

**CC:** Stevan Kvenvold, Gary Neumann, Richard Freese

**From:** Terry Spaeth

**Date:** September 29, 2003

**Re:** Revised Memorandum of Understanding with Olmsted County for Valleyhigh Road NW improvements

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At the time the Celestica TIF District was established, a Memorandum of Understanding between the City of Rochester and Olmsted County was executed.

Under said Memorandum of Understanding, it was determined by the County that road improvements to CSAH 4 (Valleyhigh Road) between County Road 22 (west Circle Drive) and 50<sup>th</sup> Avenue NW would be needed as a result of the additional traffic generated by the proposed use of the property as a manufacturing facility. The County was to proceed and install the road improvements, which were to be completed by December 31, 2005. In turn, the City would provide for payment to the County of \$1 million of the estimated \$2 million road improvement costs from tax increments generated by the project. Although the Celestica manufacturing facility closed earlier this year, the TIF District remains open and the City is presently collecting tax increments from the property at this time for the purpose of paying the aforementioned tax increment district share of road improvement costs.

Recently, several things have arisen that affect the provisions of the Memorandum of Understanding. One of those things is that Olmsted County does not presently have funding in place to construct and complete the road improvement project within the timeframe specified. Another thing that has recently come about is that the Minnesota Legislature adopted an economic development bill this past session that allows for cities to create (JOBZ) zones. At this time, the City is working with the Minnesota Department of Employment and Economic Development to qualify the former Celestica site within that zone, which will provide a host of incentives, including the waiver of local property taxes, to a qualifying business to move into that

facility and create jobs in the community. The duration of a JOBZ zone is 12 years. It is hoped that the long term effect of the program will be to the economic benefit to the City and the County by new job creation to offset previous job losses. During the 12 year timeframe of the JOBZ zone the City will not be able to collect the tax increments, however the tax increment collection may continue upon termination of the JOBZ Zone until such time that the TIF District terminates (It was set up as a 25 year District).

Due to the above mentioned changes, City and County staff have determined that it is necessary to amend the Memorandum of Understanding to the benefit of both parties. The proposed amendments are as follows:

- Provide for an additional timeframe for roadway improvement construction and completion from December 31, 2005 to December 31, 2009. This should help the County to provide additional time to secure funding for project.
- Increase the City share of tax increment district payments from \$1M to \$1.25M to provide some additional funding to the County. The intent and hope is that DEED will allow placement of the Celestica site in to the JOBZ Zone, thereby pushing out the timeframe within which the City would be able to collect the tax increments.

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Memorandum of Understanding Concerning Certain County  
Road Improvements and Costs

This Memorandum of Understanding (the "Agreement") is dated as of July 17, 2000, and amended October 14, 2003, is by and between Olmsted County, Minnesota (the "County"), and the City of Rochester, Minnesota (the "City"); and provides as follows:

1. Recitals.

(a) The City has proposed to establish its Tax Increment Financing District No. 16-1 (the "TIF District") located generally in the City in the southwest quadrant of the intersection of County Road 4 (Valleyhigh Drive NW) and County Road 22 (West Circle Drive NW).

(b) The County has determined that the TIF District and its related TIF Plan will, in the judgement of the County, substantially increase the use of County Road 4 and will thereby require construction of road improvements and the incurrence of the related road costs respecting County Road 4. The County has also determined that said improvements are not scheduled for construction within five years under the County capital improvement plan or any other formerly adopted County plan and, in the opinion of the County, would not reasonably be expected to be needed within the reasonably foreseeable future if the TIF District and Plan were not implemented.

(c) It is the judgement of the County that, as a result of the TIF District, County Road 4 will, between County Road 22 and 50<sup>th</sup> Avenue NW, need to be expanded to a four lane roadway with appropriate center lanes for left turn movements and additional property or rights-of-way may need to be acquired, along with the potential installation of appropriate curb and gutter, storm water facilities, pedestrian facilities and related road improvements (collectively, the "County Road Improvements").

(d) The estimated total cost of the County Road Improvements is \$2,500,000.

(e) The County and the City are entering into this Agreement as a memorandum of their understanding and of the County's election that a portion of the costs of the County Road Improvements will be payable out of the tax increments to be generated by the TIF District.

2. Preliminary Agreement. The County will proceed to plan and install the County Road Improvements, which shall be substantially completed by December 31, 2009. It is understood that a significant portion of these costs (the "County Share") will be borne by the County and be paid from generally-available funds of the County and that available tax increments through the term of the TIF District, not to exceed \$1,250,000 in principal of these costs (the "City Share") will be borne by the

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City and paid by the City to the County from tax increments from the TIF District or from tax increment bonds, only to the extent that sufficient tax increments are received from the District including internal, interest-bearing City borrowing of its own temporarily available funds..

The County shall provide the City with a statement of preliminary costs, as so incurred and paid, and shall also provide the City with the final accounting of the costs of the County Road Improvements, including the total County Share paid directly by the County from its generally-available funds. The County and the City agree to meet and work out the details of implementing the general understanding of this Agreement, including the planning and construction of the County Road Improvements and the other payment and financing details. The payment by the City for a portion of the County Road Improvements shall not in any way be utilized by either the City or the County to establish or give credence to a precedent for City payment for County costs for improving County roadways within the City of Rochester.

This Agreement for the installation of the County Road Improvements and the City's contribution of the City Share to the cost thereof are contingent on the creation of the TIF District and the subsequent construction therein of an approximately 200,000 square foot manufacturing facility for suitable commercial or industrial uses..

This amended Memorandum of Understanding dated October 14, 2003 rescinds and replaces the previous Memorandum of Understanding dated July 17, 2000.

IN WITNESS WHEREOF, the County and the City have caused this Agreement to be duly executed, pursuant to approval by their respective governing bodies, by their duly authorized representatives.

COUNTY OF OLMSTED, MINNESOTA

CITY OF ROCHESTER, MINNESOTA

By \_\_\_\_\_  
Its Board Chair

By \_\_\_\_\_  
Its Mayor

By \_\_\_\_\_  
Its County Administrator

By \_\_\_\_\_  
Its City Clerk

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